

REMARKS

Entry of this Amendment and reconsideration are respectfully requested in view of the amendments made to the claims and for the remarks made herein.

Claims 1-23 are pending and stand rejected.

Claims 1, 12, 21 and 23 have been amended. Claim 22 has been cancelled.

Claims 1, 12 and 21 are independent claim.

Claims 21-23 stand rejected under 35 USC §101 as being directed to non-statutory subject matter. Claims 1-23 stand rejected under 35 USC §103(a) as being unpatentable over Miyachi (USPPA no. 2003/0043165) in view of Morgan (USP no. 6,453,067).

With regard to the rejection of the claims under 35 USC §101, applicant respectfully disagrees with the interpretation of the subject matter claimed. In maintaining the rejection of the claims, the Office Action asserts that the claims must be interrupted broadly and as such the phrase, computer readable medium, does not exclude non-statutory mater such as programs are not directly executable by a computer.

Applicant respectfully disagrees with and explicitly traverses the rejection of the claims. However, in the interest of advancing the prosecution of this matter, independent claim 21 has been amended to further recite the computer readable medium provides instruction to a processor that executes the claimed elements. No new matter has been added.

Applicant submits that for the amendment to the claims, the rejection of the claims has been overcome and respectfully requests that the rejection be withdrawn.

With regard to the rejection of claims 1-23 under 35 USC §103, applicant respectfully disagrees with and explicitly traverses the rejection of the claims. However, in the interest of advancing the prosecution of this matter, the independent claims have been amended to further recite that the adjusting of the colors is performed by linearly scaling individual colors based a smallest out-of-gamut color so that the smallest out-of-

gamut color is adjusted to a known value within the gamut of colors. No new matter has been added. Support for the amendment may be found at least on page 6, line 30-page 7, line 3.

Miyachi discloses a system for adjusting the color of a display device by increasing a gradation level of a color signal having a highest gradation level while decreasing a gradation level of a color signal having the lowest gradation level when the gradation levels are not equal. Miyachi discloses in paragraph 0071 the adjustment of a color gradation level as a function of the other colors and that negative values are fixed to a zero value.

More specifically, Miyachi discloses, in its simplest form, the adjustment of colors as:

$$r' = r + Krg(r-g) + Krb(r-b);$$

$$g' = g + Kgr(g-r) + Kgb(g-b); \text{ and}$$

$$b' = b + Kbr(b-r) + Kbg(b-g)$$

where Krg, Krb, Kgr, Kbr and Kbg are positive constants; and

r, g, b are the values of respective R, G and B signals.

Miyachi discloses further, similar conversions equations in other embodiments of the device disclosed. In paragraph 0077, Miyachi provides an example of the conversion for R, G, B, signals having r, g, b values of 200, 120 and 100 (decimal), respectively, into values of 222, 105 and 85 (decimal), respectively, when $Krg=Krb=0.125$, $Kgr=Kgb=0.25$ and $Krb=Kbg=0.125$ using the aforementioned equations.

Hence, Miyachi discloses a system wherein the colors are adjusted based on predetermined constant factors and the relationships among the colors. Miyachi fails to disclose a system wherein the color values are linearly adjusted such that the smallest value is set to a known value within the gamut of colors as is recited in the claims, as is recited in the claims. In addition, Miyachi fails to provide any teaching regarding scaling the adjusted values based on a maximum adjusted value, as is recite in the claims.

Morgan discloses a display system for increasing the brightness of an image through the use of a color wheel having a white light generating segment. The display system comprises a RGBW processing function, a hue correction function and a gain correction function. The RGBW processing function includes circuitry to generate an

intensity word of use during the white light generating segment. The gain correction function includes circuitry to adjust the intensity of pixel data based on the white content of the pixel and the intensity of the pixel.

In rejecting the claims, the Office Action refers to Morgan for teaching that the pixel colors are adjusted by the smallest color value. However a review of the cited section (col. 6, lines 12-28) reveals that Morgan discloses setting the white level of the each pixel to the smallest of the RGB colors of the pixel. Thus, the RGB color levels remain essentially the same, while the white level is set to the lowest (smallest) of the RGB colors.

Hence, Morgan fails to disclose the linear scaling of the colors based on the smallest value, as is recited in the claims. In addition, Morgan fails to disclose the scaling of the colors to a maximum value based on the color with the maximum value.

A claimed invention is *prima facie* obvious when three basic criteria are met. First, there must be some suggestion or motivation, either in the reference themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine the teachings therein. Second, there must be a reasonable expectation of success. And, third, the prior art reference or combined references must teach or suggest all the claim limitations.

The Court in KSR v. Teleflex (citation omitted), however, has held that the teaching, suggestion and motivation test (TSM) is merely to be used as a helpful hint in determining obviousness and a bright light application of such a test is adverse to those factors for determining obviousness enumerated in the Graham v. John Deere (citation omitted).

In this case, the combination of Miyachi and Morgan fails to disclose at least one material element recited in the independent claims and thus, cannot be said to render obvious the subject matter recited in the independent claims.

With regard to the remaining claims, these claims depend from the independent claims 1, 12 and 21 and are thus also allowable by virtue of their dependency upon an allowable base claim.

For the amendments made to the claims and for the remarks made, herein, applicant submits that the reason for the rejection of the claims has been overcome and respectfully requests that the rejection be withdrawn and a Notice of Allowance be issued.

Applicant denies any statement, position or averment stated in the Office Action that is not specifically addressed by the foregoing. Any rejection and/or points of argument not addressed are moot in view of the presented arguments and no arguments are waived and none of the statements and/or assertions made in the Office Action is conceded.

Applicant makes no statement regarding the patentability of the subject matter recited in the claims prior to this Amendment and has amended claims 1, 12 and 21 solely to facilitate expeditious prosecution of this patent application. Applicant respectfully reserves the right to pursue claims, including the subject matter encompassed by the originally filed claims, as presented prior to this Amendment, and any additional claims in one or more continuing applications during the pendency of the instant application.

Should the Examiner believe that the disposition of any issues arising from this response may be best resolved by a telephone call, the Examiner is invited to contact applicant's representative at the telephone number listed below.

Respectfully submitted,

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